

### **REMARKS**

In the non-final Office Action mailed December 10, 2003, the drawings were objected to as informal and the specification was objected to for an informality on page 9. Finally, claims 1–15 were rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 5,835,896 to *Fisher et al.*

Claims 1, 4, 9, 12, and 15, are amended to include that the sorting of the proxy bids in descending order is “based upon a limit price for the proxy bid.” Support for this amendment can be found, among other places, in the specification on page 6, line 16.

The amendment also adds claims 16–23. Support for new claims 16–23 is found in Figure 3 and the accompanying description in the specification on page 9, line 16, to page 10, line 15. No new matter is added by the amendment and claims 1–23 are pending in the application. Please reconsider the objections and rejection in light of the amendment and remarks that follow.

#### **A. The Objection to the Drawings is Addressed**

The drawings were objected to as being informal. Formal drawings fully compliant with the drawing standards set forth in 37 C.F.R. § 1.84 are included in the Appendix attached to the end of this Response. Accordingly, withdrawal of the objection to the drawings is respectfully requested.

#### **B. The Objection to the Specification is Addressed**

The Specification was objected to for a typographical error on page 9, line 19. The amendment replaces the erroneous term “doe” with “for,” clarifying that the winning price for winning bidders other than the last winner is set as the highest losing proxy bid plus an increment. In light of the amendment, withdrawal of the objection is respectfully requested.

The amendment also replaces the erroneous “\$5050” with “\$50” on page 7, line 19 of the specification. Support can be found on the same line, which states “the sale price will be \$50 plus and increment.” If the sale price

is \$50 dollars plus an increment, then the proxy limit of the highest losing bid would be \$50, not \$5050.

C. The Rejection of Claims 1–15 Under § 103(a) is Addressed

Claims 1–15 were rejected under 35 U.S.C. § 103(a) over *Fisher*. The rejection is respectfully traversed in light of the amendment.

Claims 1, 9, 12 and 15 are amended to recite:

sorting the at least one proxy bid in a descending order *based upon a limit price for the proxy bid*.

A limit price for a proxy bid is the highest price the proxy bidder is willing to pay for an item (or items) being auctioned. See specification, page 3, lines 4–6. The present invention uses these limit prices to determine a winning sale price for an auction without actually having to spend time incrementing the bid price to generate the winning sale price.

In conventional on-line auctions that use proxy bidding, the auction is conducted as an iterative process of increasing the bid price, increment by increment, until all the bidders with low limit prices drop out. The winning sale price is then determined based on the price to which the bid is incremented that leaves only winning bidders left in the auction. For example, when a single item is being auctioned, the bid price is increased, increment by increment, until the limit price is exceeded for all proxy bidders except the winning bidder.

Increasing the bid price increment by increment and checking to see which bidders remain in the auction is a slow (but necessary) part of traditional proxy bidding. The present invention avoids this process and instead simply sorts the limit prices of the received proxy bids in descending order. Once the limit prices are sorted in this fashion, a winning sale price can be generated without having to spend the time going through the bid increment process.

*Fisher*, lacks any description or suggestion of sorting proxy bids in a descending order based upon a limit price for the proxy bid because the reference only describes a conventional proxy bidding process. The proxy

bidding process described in *Fisher* at col. 9, lines 18–35, includes a conventional auction process where “[t]he auction manager will increase the bid as necessary up to the limit amount.” In other words, *Fisher* simply describes a proxy bidding process that uses the time intensive and inefficient process of increasing the bid price, increment by increment, and checking to see which proxy bidders remain in the auction.

There is no suggestion in *Fisher* that the incrementing process can be eliminated, or even that it would be desirable to do so to reduce the time required to conduct the auction. Thus, *Fisher* neither describes nor suggests every element of amended claims 1, 9, 12, and 15, and these claims are allowable over *Fisher*. Claims 2–8, 10–11, and 13–14, which depend from claims 1, 9, 12 and 15 are allowable for at least the same reasons. Accordingly, withdrawal of the rejection of claim 1–15 under 35 U.S.C. § 103(a) over *Fisher* is respectfully requested.

#### D. Conclusion

In view of all of the above, claims 1–23 are believed to be allowable and the case in condition for allowance, which action is respectfully requested. Should the Examiner be of the opinion that a telephone conference would expedite the prosecution of this case, the Examiner is requested to contact the attorney at the telephone number listed below.

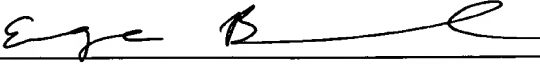
Please charge Deposit Account 50-1123 the \$54 fee for having three claims in excess of 20 under 37 C.F.R. § 1.16(c). No other fees are believed to be required with the Response, but should they be required, please charge them to Deposit Account 50-1123.

Appl. No. 09/712,935  
Amdt. dated February 5, 2004  
Reply to Office action of December 10, 2003

Should any extension of time be required, please consider this a petition therefor and charge the required fee to Deposit Account 50-1123.

Respectfully submitted,

February 5, 2004

  
\_\_\_\_\_  
Eugene J. Bernard, Reg. No. 42,320  
HOGAN & HARTSON LLP  
1200 17<sup>th</sup> Street, Suite 1500  
Denver, Colorado 80202  
Telephone: (303) 454-2457  
Facsimile: (303) 899-7333